



Nicholas Ostrowski

Call: 2009



Contacts

telephone: 020 7797 8400
email: nicholas.ostrowski@6pumpcourt.co.uk

Area of expertise

Civil & Commercial, Inquests & Inquiries, Licensing, Planning & Environmental, Public Law, Regulatory & Competition.

Education

BA English Literature & Politics, University of York (First) MA Legal & Political Philosophy, University College London Graduate Diploma in Law, City University Bar Vocational Course, BPP

Practice

Nicholas Ostrowski specialises in environmental, planning, public, and regulatory law. He has been recommended for several years in his core practice areas and is currently ranked in three separate areas (environmental, planning and health & safety law). In 2020 Nicholas was promoted to the Attorney General's B Panel of Counsel, following 5 years as a member of the Attorney General's C Panel. In addition, Nicholas is appointed to the List of Specialist Regulatory Advocates in Health & Safety and Environmental Law (List B). He appears for and against government departments, regulators, local authorities and private companies and individuals. **Environmental & Planning** Nicholas is a specialist environmental and planning barrister who represents a wide variety of clients in environmental and planning cases. He is a contributor to Garner's Environmental Law, a leading publication in this area and has developed particular expertise in water law. Recent environmental law work includes:

- *Sunman v Environment Agency* [2020] 1 WLR 1024 – whether application for compensation for non-payment of registration fees payable by house boat owners on inland waterways is ultra vires
- *Manchester Ship Canal Co Ltd v United Utilities Water Ltd* [2019] EWHC 1495 (Ch) - water company's responsibility for water discharged through outfalls into canal (with [Charles Morgan](#))
- *Mustafa v Enfield LBC* [2019] 1 WLR 3196, [2018] EWHC 3726 (Admin), [2019] JHL 22 – landowner's responsibility for waste water sewage



- *Environment Agency v Stone and Salhouse* [2018] EWHC 994, [2018] Env. L.R. 32; [2018] A.C.D. 63 – landowner's responsibility for waste brought onto land by tenant
- *Anthony Hall v Environment Agency* [2018] 1 W.L.R. 1433; [2018] Env L. R. 11; [2017] EWHC 1309 (TCC) - test case brought by the Agency on the correct statutory interpretation of the Water Resources Act 1991 and whether those who suffer flooding from the Agency must claim damages under the system of statutory compensation
- *Public Inquiry into abstraction from the Rivers test, Itchen and Candover* – acted for Fish Legal in this public inquiry under the Water Resources Act 1991 into proposed abstraction by Southern Water, issues of drought modelling and fish impact
- *EA v T* – possession of land on and around the bed and banks of the River Thames (ongoing)
- *Goring on Thames Parish Council v South Oxfordshire District Council and Environment Agency* [2016] EWHC 2898 - Judicial Review into proposed hydropower scheme across the river Thames
- *R (AR & DR) v Environment Agency* - judicial review of the Agency after a successful prosecution
- *EA v LW and RH* – discharge of waste water emanating from rotten potatoes
- *EA v KA* – defence of a director charged with operating a waste disposal site in breach of an enforcement notice
- Defence of a Harley Street doctor accused of the alleged unauthorised deposit of clinical waste in central London
- Appeal against enforcement notice served against a scrap metal dealer for alleged breaches of environmental permit
- Prosecution for breach of section 33 Environmental Protection Act 1990 for an unauthorised fly-tipping site resulting in significant sentences and application for orders under the Proceeds of Crime Act
- Application for injunction alleging noise nuisance emanating from local business

Recent planning work includes:

- *R (Holborn Studios + Del Brenner) v LB Hackney* - [2017] EWHC 2823; [2018] P.T.S.R 997; [2018] J.P.L. 567; [2018] J.P.L.467 – judicial review into the appropriate standard of consultation to occur after amendments made to a planning application
- *Coles v Lichfield DC* [2016] EWHC 3059 (Admin) – proper application of Planning Enforcement Orders
- *Hackney LBC v Manorgale* [2015] EWHC 2025 (QB) – planning injunctions under S.187B TCPA 1990
- Numerous statutory appeals under S.288 and S.289 TCPA 1990 (acting for appellants and for MHCLG)
- Inquiries relating to housing development, extensions, basements, and office developments (often involving– issues of housing land supply, heritage, listed buildings etc)
- Inquiries relating to the enforcement of planning control (often raising difficult issues such as traveller/gypsy encampments, unauthorised change of use and with difficult factual histories)
- Numerous large confiscation orders sought (and resisted) for breach of planning law



- Numerous successful applications on behalf of London Councils for s.187B TCPA 1990 injunctions in the High Court to restrain work in breach of planning control

Public Nicholas is frequently instructed as a specialist public law barrister to represent government departments and other parties including the Home Office, the Ministry of Justice and the Department for Environment, Food and Rural Affairs in judicial review claims. Recent public law work includes:

- *R (Ellis) v Secretary of State for the Home Department* [2020] Imm AR 812 – application of Home Office discretionary leave policy
- *Mannering v Cook* [2020] EWHC 1998 (Ch) – test to apply when granting of extended Civil Restraint Order against serial litigant
- *R (TN) v Secretary of State for the Home Department* [2020] EWHC 481 (Admin) – correct approach to immigration detainees sentenced as adults but subsequently assessed to be children
- *R (HBTN) v Sunderland City Council* [2019] EWHC 3221 (Admin) – disclosure of age assessments by one local authority to another
- *Watts v Stewart* [2018] 2 W.L.R. 1107; [2018] Ch 423 (unled at first instance, led by Stephen Hockman QC in the Court of Appeal) – almshouse occupiers and Article 8
- *R (Mohammed) v Secretary of State for the Home Department* [2016] EWHC 447 (Admin) – detention pending deportation for violent offenders
- *R (on the application of HN and SA) (Afghanistan) v Secretary of State for the Home Department* [2016] EWCA Civ 123 – (with David Blundell and Mary Glass) Removals to Afghanistan
- *R (Yousefi) v Secretary of State for the Home Department* JR/4468/2016 - return of Hazaris to Afghanistan
- *R (Sakhizadah) v Secretary of State for the Home Department* JR/10464/2015 - Article 15(c) violence in Afghanistan
- *R (Oguama) v Secretary of State for the Home Department* JR/15810/2016 – service of Notices of Curtailment
- *R (Roman) v Secretary of State for the Home Department* – service of biometric information under the Points Based System
- *R (Taj) v Secretary of State for the Home Department* – interviews for Tier 1 Entrepreneur applicants

Regulatory Nicholas is a specialist regulatory barrister who has been instructed for and against a wide variety of regulators including the Financial Conduct Authority (FCA), the Office of Gas and Electricity Markets (OFGEM), local authorities and other regulators such as the Environment Agency, the Health & Safety Executive (HSE) and Fire and Rescue Authorities. He also appears regularly in Inquests often appearing for parties who are facing potential investigations or sanctions from regulatory bodies. Recent regulatory work includes:

- *Office of Road and Rail v Renown Consultants Ltd* – prosecution and five week trial (with David Travers QC) for breach of HSWA 1974 in failing to manage employees' fatigue leading to double fatality
- *HSE v Veolia* – defending (with Mark Watson QC) a multinational company in a three



week trial for breach of HSWA 1974 in failing to prevent fatality arising from crush injuries in a waste processing station

- *Ofgem v Economy Energy* – allegations of mis-selling to vulnerable customers by Ofgem
- *Ofgem v SSE* - Mis-selling of energy products and breach of licence conditions by SSE, record fine imposed (with Stephen Hockman QC and Monica Carrs Frisk QC, [news report](#))
- *HSE v a local authority* – breach of Section 3 Health and Safety at Work etc Act 1974 arising from the collapse of a wall onto a public highway in London
- *HSE v a local authority* – breach of Section 2 Health and Safety at Work etc Act 1974 in relation to an incident involving social workers on a home visit
- *Welwyn Hatfield DC v O and CES* - breach of Section 2 Health and Safety at Work etc Act 1974 resulting in serious incident on an escalator ([news report](#))
- *HSE v SS* - breach of section 2 Health and Safety at Work etc. Act 1974 by well known manufacturer arising out of a very serious injury sustained after a fall from a factory roof
- *HSE v BF* – defence of a very large food processing business in a prosecution by the HSE arising from a serious injury sustained in a mincing machine ([news report](#))
- *HSE v DPC* – defence of a building contractor in a prosecution arising from a serious fall from height in a building site
- *Westminster CC v P & B* - Appeal against an Hygiene Emergency Prohibition Notice (and subsequent prosecution) served on a leading chain of restaurants in central London
- *Crawley BC v G* – defence of individual responsible for serious burn injuries sustained in a restaurant
- *London Fire & Rescue Service v P* - defence of a director of a large hotel in Central London for breaches of in respect of The Regulatory Reform (Fire Safety) Order 2005
- *Inspector of Health and Safety v PH* - appeal against Prohibition Notice served against a nationwide holiday home provider arising from a serious burn sustained in a restaurant kitchen
- *Lancashire Fire & Rescue Service v Z* – defence of a large landlord in respect of a string of allegations relating to poor fire safety at rented homes
- Advising a large chain of restaurants as to potential criminal liability for breach of hygiene law

Recent inquest work includes:

- Inquest into the death of DB – death in custody
- Inquest into death of MF – death by smoke inhalation arising from a fire in a block of flats
- Inquest into the death of ML – representing the prison service after a death in custody at a two week long Article 2 inquest, issues include the proper use of restraints and complex medical causation
- Inquest into the death of DB – representing the Prison Service after suicide of a man in custody
- Inquest touching the death of PS – representing a fork lift truck hire company after death of a man who died of crush injuries
- Inquest touching the death of AB - death of a woman in complex circumstances which is



the subject of a Serious Case Review

- Inquest touching the death of LP – representing the Prison Service after a death in custody, issues included the adequacy of the checking of prisoners
- Inquest touching the death of EC – representing the family after death of a woman who died of head injuries after falling over at a hospital during a mammogram

AWARDS/OTHER EXPERIENCE Nicholas is the convenor for the Water Working Party at the United Kingdom Environmental Law Association (UKELA). In 2012 Nicholas was awarded a Pegasus scholarship by Inner Temple and worked with a number of environmental and planning lawyers in the United States. Nicholas was awarded the David Karmel and Prince of Wales Scholarships by Gray's Inn.

Recommendations

“He has very good commercial awareness and really knows his stuff on environmental law. Clients find him easy to relate to and he is very responsive.”

Chambers UK Bar Guide [2021]

“A deeply knowledgeable environmental lawyer with a practical, commercial approach who is great with clients.” (Environmental)

“...knowledgeable, thorough and in the details. A barrister who is very personable and who is extremely well regarded by solicitors and clients alike...” (Health & Safety)

“Good on difficult issues when clients need to be delivered unpalatable truths.” (Planning)

Legal 500 [2021]

“An extremely intelligent and skilled advocate who has an excellent knowledge of planning and environmental law. He is also able to take a commercial view of cases and understand the client's wider needs.” (Environmental)

“Practical and painstaking. His thorough preparation ensures that all areas of potential risk and case weaknesses are brought to your attention so that these matters can be positively resolved.” (Health & Safety)

Legal 500 [2020]

“He provides prompt and insightful advice with a friendly and likeable manner.”

“Does a thorough job.”

Legal 500 [2018]

“An extremely intelligent and skilled advocate, who is unafraid of a hostile court.”



“Diligent and enthusiastic.”

Legal 500 [2017]

Professional memberships

Financial Services Lawyers Association

United Kingdom Environmental Lawyers Association

Planning and Environment Bar Association

Bar Pro Bono Unit

Health & Safety Lawyers Association